

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR
Misc. Civil Application No.203 of 2007 in
Writ Petition No.5931 of 2005

(Ramrao Manikrao Kathle and Ors. vs. The Nagpur Municipal Corporation and Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.Anand Parchure, Adv. for the petitioners/review applicants.
Mr.C.S.Kaptan, Sr. Cl. with Mrs.S.S.Jachak, Adv. for respondent nos. 1 and 2.
Mr.P.C.Madkholkar, Adv. for respondent no.3.
Mr.D.P.Thakare, learned A.G.P. for respondent no.4

CORAM : B. R. GAVAI AND
P. N. DESHMUKH, JJ.

DATE : 16.11.2015.

Heard.

Misc. Civil Application No.203 of 2007 for review has been filed by the petitioners/applicants contending therein that the Writ Petitions bearing Writ Petition Nos. 5931 of 2005, 6255 of 2005 and 6467 of 2005 have been disposed of by this Court on 17.1.2007 on an erroneous statement made by the learned A.G.P. then appearing in the matter.

Heard Mr.Anand Parchure, learned Counsel for the petitioners/review applicants, Mr.C.S.Kaptan, learned Senior Counsel for respondent nos. 1 and 2, Mr.P.C.Madkholkar, learned Counsel for respondent no.3 and Mr.D.P.Thakare, learned A.G.P. for respondent no.4 in the review application.

The contention as raised by Mr.Anand Parchure, learned Counsel appears to be correct. While disposing of the petitions afore-mentioned, in the last two paragraphs, this Court has recorded a

statement of learned A.G.P. that the width of road is 24 meters and not 15 meters. However, perusal of the affidavit filed by the respondent/Corporation itself would reveal that the Corporation had passed a resolution on 28.11.2008 for effecting minor modification u/s.27 of the Maharashtra Regional Town Planning Act, 1966 for increasing width of road to 24 meters from 15 meters. The State Government has also accorded sanction to the proposed modification and increased the width of road from 15 meters to 24 meters vide notification dt.12.11.2014. However, the said notification has been issued subject to outcome of the present proceedings.

It would, thus, appear that the said petitions were disposed of on an incorrect statement made by the learned A.G.P. We, therefore, find that a good ground is made out for reviewing the order. Misc. Civil Application No. 203 of 2007 is, therefore, allowed. Writ Petition Nos. 5931 of 2005, 6255 of 2005 and 6467 of 2005 are restored to file.

Writ Petition Nos. 5931 of 2005, 6255 of 2005 and 6467 of 2005 :

Heard Mr.Anand Parchure, learned Counsel for the petitioners and Mr.C.S.Kaptan, learned Senior Counsel for the respondent/Corporation.

The petitioners have basically approached this Court challenging the notices issued by the

Corporation in the month of January, 2005 thereby calling upon the petitioners to surrender the lands being owned and occupied by them so as to enable the Corporation to widen the road.

It is the contention of the petitioners that the said notices are de hors of the provisions of law.

The Corporation has filed its affidavit dt.14.2.2006 in which it is specifically stated that the Nagpur Municipal Corporation will proceed and follow the procedure as mentioned under Section 126 of the M.R.T.P. Act for acquiring the lands affected in the road widening.

Mr.C.S.Kaptan, learned Senior Counsel reiterates the statement made on behalf of the Corporation in the said affidavit.

In that view of the matter, we do not find that the grievance of the petitioners is well-founded. When the Corporation itself has decided to follow the procedure u/s.126 of the M.R.T.P. Act for acquiring the lands for the purpose of road widening, the petitioners cannot be heard to say that they have any grievance with regard to action of the Corporation. The Writ Petitions are, therefore, disposed of by accepting the statement made on behalf of the petitioners.

Civil Application St. No.18537 of 2015 in MCA No.1344 of 2007 in W.P. No.6255 of 2005 :

Mr.Anand Parchure, learned Counsel for the applicants seeks permission to withdraw the

application with liberty to take such steps as are permissible in law. Permission is granted. The application is disposed of as '*withdrawn*' with liberty, as prayed for.

JUDGE

JUDGE

*jaiswal